

# HARNEYS

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## BRITISH VIRGIN ISLANDS

### **New bill may affect trademark declarations**

The Commissioners for Oaths and Notaries Public Bill 2006 which received its first reading in the Legislative Council was published in the *Official Gazette* on January 25 2007. The purpose of the bill, according to its long title, is to provide for the appointment of commissioners for oaths and notaries public and for connected matters.

The bill outlines new criteria for the appointment of commissioners for oaths and notaries public, where notaries will be *ex officio* commissioners, but only a person entitled to practice law in the British Virgin Islands (BVI) and has so practised for at least three years prior to the application for appointment can be a notary. Provision is made for existing commissioners and notaries to apply to be enrolled as a commissioner or notary within six months after the bill is brought into force. A key feature of the bill is the requirement of an annual practising certificate for both commissioners and notaries which abolishes the existing life appointments.

The bill, if passed and brought into force, will be important for purposes of any declaration required under the Trademarks Act, such as the declaration to accompany a statement on application for registration of a trademark and the declaration of assignment of trademarks. Where the BVI agent appointed under a power of attorney makes the declaration it will have to be made and subscribed before a person either on the Roll of Commissioners or the Roll of Notaries Public. In either case such a person must have a valid practising certificate. The declaration will also be subject to new declaration fees prescribed by the chief justice after consulting with the attorney general and the BVI Bar Association. This, however, will not affect the various rules for declarations made and subscribed pursuant to the [Trademarks Act](#) in the United Kingdom, or outside of the United Kingdom but in a country within the British Commonwealth, such as another British Overseas Territory, Canada or Australia, or outside of the United Kingdom and in a country outside the British Commonwealth, such as China, the Dominican Republic, Japan or the United States.

The bill must go through two more readings before the Legislative Council is dissolved which is expected to take place within a few months in anticipation of general elections. If it does not pass before dissolution of the Legislative Council it will die a natural death.

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